

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KEVIN A. HARDY
Plaintiff,

v.

LT. ARMSTRONG, et al.
Defendants.

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No. 3 07 1035
JUDGE HAYNES

O R D E R

The Court has before it's a *pro se* prisoner complaint under Title VI of the Civil Rights Act of 1964, and an application to proceed *in forma pauperis*.

It appears from the application that the Plaintiff lacks sufficient financial resources to pay the \$250.00 filing fee. Accordingly, pursuant to 28 U.S.C. § 1915(B)(4), The Clerk will file the complaint *in forma pauperis*. 28 U.S.C. § 1915(a).

The Plaintiff is herewith assessed the civil filing fee of \$350.00. Pursuant to 28 U.S.C. § 1915(b)(1)(A) and (B), the custodian of the Plaintiff's inmate trust account at the institution where he now resides is directed to submit to the Clerk of the Court, as an initial partial payment, whichever is greater of:

(a) twenty percent (20%) of the average monthly deposits to the Plaintiff's inmate trust account; or

(b) twenty percent (20%) of the average monthly balance in

the Plaintiff's inmate trust account for the prior six (6) months.

Thereafter, the custodian shall submit twenty percent (20%) of the Plaintiff's preceding monthly income (or income credited to the Plaintiff's trust account for the preceding month), but only when such monthly income exceeds ten dollars (\$10.00), until the full filing fee of three hundred fifty dollars (\$250.00_ as authorized under 28 U.S.C. § 1914(a) has been paid to the Clerks of the Court. 28 U.S.C. 1915(b)(2).

In accordance with the Memorandum contemporaneously entered, this action, therefore, is hereby **DISMISSED** for Plaintiff's failure to state a claim upon which relief can be granted. 28 U.S.C. § 1915A(b)(1).

An appeal of this judgment rendered herein would not be taken in good faith. Coppedge v. United States, 82 S.Ct. 917, 921 (1962). Therefore, the Plaintiff is **NOT** certified to pursue an appeal of this judgment *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

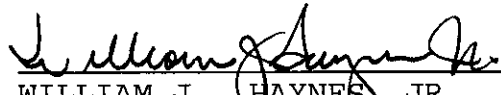
The Plaintiff decide to file a notice of appeal, he must either pay the Clerk of Court the full appellate filing fee of four hundred fifty five dollars (\$455.00) or submit a new application to proceed *in forma pauperis* with a certified copy of his inmate trust account statement for the previous six month period. 28 U.S.C. § 1915(a)(1); McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997).

The Clerk is directed to send a copy of this order to the Sheriff of Montgomery County to ensure that the custodian of Plaintiff's inmate trust account complies with that portion of the Prison Litigation Reform Act relating to the payment of the filing fee.

Entry of this order shall constitute the judgment in this action.

It is so ORDERED.

ENTERED this the 17th day of October, 2007.


WILLIAM J. HAYNES, JR.
United States District Judge